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Filed : March 26, 2001

**REMARKS**

In the Office Action, the Examiner notes that Applicant's arguments with respect to the rejections of claims 1-4, 6, 9-14, 16-18, and 20-22 were fully considered and were persuasive and the rejections were withdrawn. However, upon further consideration a new grounds of rejection was made in view of Combini, Netship, and Yamada.

Claims 1, 2, 6, and 20 were rejected under 35 USC 103(a) as being unpatentable over Combini (Paper #20041104, Item: X), in view of Netship (Paper #20041104, PTO-892, Item: U). Claim 3, 9-14, 16-18, and 21 were rejected under 35 USC 103(a) as being unpatentable over Combini (Paper #20041104, Item: X) and Netship (Paper #20041104, PTO-892, Item: U), as applied to Claim 1, further in view of Yamada (Paper #20041104, US 6,336,100). Claim 4 was rejected under 35 USC 103(a) as being unpatentable over Combini (Paper #20041104, Item: X) and Netship (Paper #20041104, PTO-892, Item: U) as applied to Claim 1, further in view of Yamada (paper #20041104, US 6,336,100), further in view of Official Notice (regarding old and well known in the arts, thereafter referred to as "ON1"). Claim 22 was rejected as being unpatentable over Combini (Paper #20041104, Item: X), Netship (Paper #20041104, PTO-892, Item: U), as applied to claim 21, further in view of Yamada (Paper #20041104, US 6,336,100), further in view of Official Notice (regarding old and well known in the arts, thereafter referred to as "ON2").

Applicant has canceled claims 1-4, 6, 9-14, 16-18, and 20-22, thereby canceling or withdrawing from consideration all previously submitted claims, and added independent claim 23 and dependent claims 24-34. The new claims are responsive to interviews with the examiner on September 22 and October 6, 2005 and the telephonic communication of February 7, 2006.

**Discussion of the Applicant's Disclosure**

The following paragraphs, which highlight certain aspects of the Applicant's disclosure, are intended to assist the Examiner in understanding certain embodiments of the invention.

- (a) Consumers place online orders at independent times with a variety of distinct and independent merchants.
- (b) A selection of temporary storage facilities (described in the specification as Order Aggregation Sites) proximate the consumer can be identified for the potential physical aggregation of the orders placed by the consumer with the various merchants. An Order Aggregation Site need not be a stocking warehouse. It is preferably used

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primarily for temporary storage (typically a few hours) and aggregation of orders arriving in synchronism from different points of origin to allow for minor schedule deviations. Once all the orders arrive, they can be aggregated and transferred to the consumer in a single operation.

- (c) For each consumer, a convenient temporary storage facility and a convenient date and time can be selected for the physical aggregation of the set of orders destined to that consumer and the subsequent transfer of the resulting aggregated orders to the consumer.
- (d) To eliminate inventory costs, the items in each order can be sent to the selected temporary storage facility from each point of origin in accordance with a just-in-time scheduled whereby they arrive at that facility just-in-time to be all aggregated and then transferred to the consumer in a single operation. This strategy eliminates the need for stocking warehouses between the point of origin (which can be the manufacturing point) and the temporary storage facility.
- (e) To reduce transportation costs each merchant can group in one shipment all the orders destined to a same regional distribution center servicing a given geographic area and having compatible schedules. All shipments received at each regional distribution center and having compatible schedules can then be regrouped by the designated temporary storage facility. Finally, from the regional distribution center, a local transportation service can execute just-in-time deliveries to the designated temporary storage facilities in compliance with the pre-established schedules.

#### Response to Rejections

By focusing on specific references, claims and limitations in the remarks that follow, Applicant does not intend to imply an agreement with the Examiner's assertions with respect to other references, claims, and limitations.

#### **As to Independent Claim 23**

New independent Claim 23 has been added. This new independent claim includes the limitations of the original claim 1 (presently cancelled) and adds additional limitations that provide a more explicit representation of the main objects and purposes of this invention, as outlined above.

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The references cited by the Examiner, Combini (Paper #20041104, Item: X), Netship (Paper #20041104, PTO-892, Item: U), and Yamada (Paper #20041104, US 6,336,100), are trying to address the problems associated with consumers not being always available to receive the items shipped to them by online retailers.

Combini and Yamada describe methods in which the items purchased online by the consumer are shipped independently of each other to a local convenience store that is open 24X7 to give the consumer the opportunity to pickup each item at any convenient time. Netship describes a nationwide network of inventory locations to preposition inventory closer to the ultimate consumers to reduce response time and transportation costs.

None of these systems provide a complete solution to the problems resolved by the present invention.

First, Yamada does not contemplate aggregating online orders placed with a variety of distinct and independent merchants. Instead, each order is processed independently and shipped to a convenience store for consumer pickup at any time. Unlike the present invention, there is no attempt to synchronize shipments to ensure that they all arrive at the convenience store approximately at the same time to offer the consumer the convenience of picking-up all the items in a single trip.

Second the claimed invention recites a coordinated just-in-time transportation method to transfer the aggregated orders to the consumer at a date and time designated by the consumer, either by consumer pickup at a selected "Order Aggregation Site" or delivery to a consumer designated address. Yamada does not disclose coordination or just-in-time shipment, etc.

Third, Netship, proposes an alternative which appears to duplicate, for online merchants, conventional retail stores – locations where inventory is pre-positioned to service the perceived demand from local consumers. The last three paragraphs of this reference state:

"An interesting alternative to single, national warehouses is Netship, a nationwide network of inventory locations using Parcel Plus locations. Using Parcel Plus locations as virtual warehouses and pick-and-pack operations, small and midsize online merchants can preposition inventory closer to their ultimate consumers, maximizing response to customer orders and potentially reducing overall transportation costs. In many instances, merchants would be able to use one-day ground service or let the customer pickup the items at the

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parcel plus location. This concept applies equally to small and large merchants. In fact, larger online merchants stand to benefit more from distributed inventories because they can bundle larger shipments.

Using demographics and historical data on sales by area, merchants are able to preposition inventories closer to their customers. Online order systems will assign orders to the inventory center closest (or cheapest) to the delivery point, in real time. Merchants will be able to monitor progress of distributed fulfillment operations and issue orders to maintain optimal inventory levels at all locations.

In the online world, where barrier to entry is low and price comparison is only a click away, price is every thing. A software program may be advertised for \$189 plus \$10 for shipping on one site, and \$195 with free shipping on another. Inventory is a necessary evil, as many merchants are finding out. With razor-thin margins, these merchants will have to find ways to optimize how their goods get in the hands of their customers. As the world turns, we are likely to see changes in how online merchants manage their physical distribution channels, and this likely will mean more decentralized operations.”

This reference acknowledges that inventory is a fundamental problem and that online merchants will have to find ways to optimize how their goods get in the hands of their customers but proposes a distributed inventory alternative which does not reduce the total inventory. Under such alternative the total inventory in the distribution system would actually increase because it would comprise both the inventory held by conventional merchants plus the distributed inventory of online merchants, thereby resulting in a significant amount of inevitable inventory duplication between two competing retail methods, conventional and online. In contrast, the present invention describes a method to eliminate inventories stored in warehouses and retail stores throughout the country and limit the total inventory in the distribution system to that which is within the transportation system (trucks, trains, ships, etc.).

None of the references cited by the examiner attempt to associate the items ordered by the consumer and synchronize their respective shipments to ensure that they all arrive just-in-time at a selected temporary storage facility, proximate the consumer, where all the items ordered can be

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aggregated and transferred to the consumer in a single operation at a predetermined time selected by the consumer. Further there is no attempt to provide a complete just-in-time product distribution system that moves products from the manufacturer to the consumer without the economic waste associated with warehouses and pre-positioned inventories.

Claim 23 recites "associating a plurality of items with each other, wherein each of the items is ordered by the consumer from a different one of a plurality of merchants." Yamada contemplates multiple orders placed by a consumer, but such orders are not associated with each other to permit subsequent aggregation at a temporary storage facility proximate the consumer.

Claim 23 recites "identifying a temporary storage facility proximate the consumer, from which the plurality of items can be transferred to the consumer." Yamada contemplates identifying a location from which the consumer can pickup any item ordered, but does not provide for the entire "plurality of items" to be transferred to the consumer in one operation. None of cited references contemplate "identifying a date and time for transferring the plurality of items to the consumer" because of incompatibilities associated with random deliveries by common carriers for each of the plurality of items.

None of cited references contemplate "estimating a transportation time for each of the plurality of items ordered by each of the consumers from the merchant to be transported to the identified temporary storage facility".

None of cited references contemplate "based at least on the estimated transportation time and the selected date and time for transfer, synchronizing a shipment of each item from the point of origin to the respective identified temporary storage facility in accordance with a just-in-time schedule compatible with the identified date and time for transferring the plurality of items to the respective consumer".

None of cited references contemplate "receiving the associated items at the identified temporary storage facility" – in Yamada the items are not associated or necessarily received substantially at the same time.

None of cited references contemplate "based at least on the association of the items on the computer system, physically aggregating the items at the identified temporary storage facility".

None of cited references contemplate "transferring the aggregated items to the consumer" since no aggregation takes place.

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Since all of the limitations of Claim 23 have not been shown in the cited references, Applicant respectfully submits that Claim 23 has not been shown obvious or covered by the cited prior art. Claims 24-34 depend from Claim 23 and should likewise be allowable for at least the reasons set forth above with respect to Claim 23.

Support for Claim 23 can be found, for example, in the specification at steps 2201-2203 [73:16-74:2], at step 2301 [77:29-78:2], at steps 2221-2222 [75:3-10], at steps 2231-2233 [76:9-18], at step 1107 [52:4-5], [74:17-23], at steps 1022-1027 [49:3-14], at steps 1202-1204 [53:2-8], at steps 2304-2308 [78:8-21], at steps 2231-2233 [76:12-18], at steps 1701-1703 [62:5-15], at steps 2209-2210 [74:24-25], at steps 2211-2212 [75:1-2], and more generally at steps 2301-2308 [77:29-78:21] and in the figures at Figure 22A-B, Figure 11B, Figure 10C, Figure 12, Figure 17, Figures 22A-B, and Figure 23.

**As to New Claim 24**

New Claim 24 has been added to make clear that the association recited in Claim 23 can be indirect.

Support for Claim 24 can be found, for example, in the specification at step 2301 [77:29-78:2] and at steps 2201-2202 [73:16-23] and in the figures at Figure 23 and Figure 22.

**As to New Claim 25**

New Claim 25 has been added.

Support for Claim 25 can be found, for example, in the specification at steps 600-602 [36:16-19] and at step 2202 [73:18-21] and in the figures at Figures 6A and 22A.

**As to New Claim 26**

New Claim 26 has been added to make clear that the consumer has the opportunity to select the temporary storage facility from which to pickup the aggregated order.

Support for Claim 26 can be found, for example, in the specification at [3:27-4:4], at step 1107 [52:8-10], at step 1105 [51:27-28], and at step 2205 [74:4-5] and in the figures at Figures 11A-B, and Figure 22.

**As to New Claim 27**

New Claim 27 has been added to make clear that the consumer has the opportunity to select the date and time for receiving the aggregated order.

Support for Claim 27 can be found, for example, in the specification at step 1107 [52:8-12] and at step 1109 [52:14-16] and in the figures at Figures 11B.

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**As to New Claim 28**

New Claim 28 has been added to make clear that the claimed invention can reduce transportation costs by transporting together all the items to be sent from the same point of origin, within a comparable schedule, to the same temporary storage facility.

Support for Claim 28 can be found, for example, in the specification at [32:11-14], at steps 1022-1027 [49:3-14], at steps 1202-1204 [53:2-8], at step 2206 [74:5-10], and at step 2207 [74:17-23] and in the figures at Figure 10C, Figure 12, and Figure 22.

**As to New Claim 29**

New Claim 29 has been added to make clear that the claimed invention can control transportation schedules, including those from the point of origin to the temporary storage facility.

Support for Claim 29 can be found, for example, in the specification at steps 1022-1027 [49:3-14] and in the figures at Figure 10C.

**As to New Claim 30**

New Claim 30 has been added to make clear that the claimed invention can coordinate all the activities associated with scheduling, transporting, and aggregating, at convenient temporary storage facilities, items purchased by consumers from a plurality of distinct merchants.

Support for Claim 30 can be found, for example, in the specification at steps 1024-1027 [49:7-14] and steps 2207-2209 [74:11-29] and in the figures at Figure 10C and Figure 22A.

**As to New Claim 31**

New Claim 31 has been added.

Support for Claim 31 can be found, for example, in the specification at steps 2221-2223 [75:3-76:2] and at step 2308 [78:18-21] and in the figures at Figure 22B and 23.

**As to New Claim 32**

New Claim 32 has been added.

Support for Claim 32 can be found, for example, in the specification at steps 1031-1032 [49:24-29] and in the figures at Figure 10D.

**As to New Claim 33**

New Claim 33 has been added.

Support for Claim 33 can be found, for example, in the specification at steps 2231-2233 [76:9-18] and in the figures at Figure 22B.

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**As to New Claim 34**

New Claim 34 has been added.

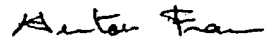
Support for Claim 34 can be found, for example, in the specification at step 2234 [76:19-25], at steps 1200-1204 [52:20-53:8], and at step 2307 [78:15-17] and in the figures at Figure 12, Figure 22, and Figure 23.

**CONCLUSION**

In view of the foregoing remarks, Applicant submits that the application is in condition for allowance. If, however, issues remain which can potentially be resolved by telephone, the Examiner is invited to call the Applicant at his direct dial number of (408) 730-0110.

Respectfully submitted,

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